(Mrs. CLINTON) was added as a cosponsor of S. 1613, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and wage production credit.

S. 1693

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1693, a bill to amend section 35 of the Internal Revenue Code of 1986 to allow individuals receiving unemployment compensation to be eligible for a refundable, advanceable credit for health insurance costs.

S. 1700

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1707

At the request of Ms. STABENOW, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1707, a bill to amend title 39, United States Code, to provide for free mailing privileges for personal correspondence and certain parcels sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force, and for other purposes.

S. 1730

At the request of Ms. SNOWE, the names of the Senator from Georgia (Mr. MILLER) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1730, a bill to require the health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 1734

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1734, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to expand or add coverage of pregnant women under the medicaid and State children's health insurance programs, and for other purposes.

S. 1735

At the request of Mr. HATCH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1735, a bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 1736

At the request of Mr. ENZI, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 1736, a bill to promote simplification and fairness in the administration and collection of sales and use taxes.

S. 1741

At the request of Ms. COLLINS, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1741, a bill to provide a site for the National Women's History Museum in the District of Columbia.

S. 1744

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1744, a bill to prevent abuse of Government credit cards.

S. RES. 210

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 210, a resolution expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October of 2003 as ''National Work and Family Month''.

S. RES. 240

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 240, a resolution designating November 2003 as ''National American Indian Heritage Month''.

AMENDMENT NO. 1825

At the request of Mr. BOND, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 1825 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 1825 proposed to S. 1689, supra.

AMENDMENT NO. 1837

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of amendment No. 1837 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1843

At the request of Mr. COLEMAN, his name was added as a cosponsor of amendment No. 1843 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

At the request of Mrs. BOXER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 1843 proposed to S. 1689, supra.

AMENDMENT NO. 1857

At the request of Mr. STEVENS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 1857 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1858

At the request of Mr. NELSON of Florida, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 1858 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1864

At the request of Mr. DOMENICI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 1864 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1882

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of amendment No. 1882 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS (for himself, Mr. KENNEDY, and Ms. CANTWELL):

S. 1754. A bill to enhance national security by improving the reliability of the U.S. electricity transmission grid, to ensure efficient, reliable and affordable energy to American consumers, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, today I am introducing comprehensive legislation to ensure the reliable delivery of electric power in the United States. I am pleased have the Senior Senator from Massachusetts and the Senator from Washington join me as original cosponsors of this bill.

This past August, nearly 50 million people in the Northeast and Midwest were affected by a massive power outage. Hurricane Isabel and other weather systems left millions more without power. These events emphasize the vulnerability of the U.S. electricity grid to human error, mechanical failure, and weather-related outages.

Unfortunately, the electricity provisions now being considered in the ongoing energy bill conference were written well before these recent events. The pending energy bill fails to do all that is necessary to protect the grid from devastating interruptions in the future. That is why I am introducing this bill today to ensure greater reliability in our electricity delivery system.

My bill, the Electric Reliability Security Act of 2003, will help achieve reliability and security of the electricity grid in an efficient, cost-effective, and environmentally sound manner. It does so by creating mandatory, nationwide electric reliability standards.

The bill also mandates regional coordination in the siting of transmission facilities, and provides $10 billion in loan guarantees to finance ''smart grid'' technologies that improve the way the grid transmits power.

While a $10 billion investment may seem to be a large investment, it is significantly less than the transmission cost estimates that have circulated following the Northeast blackout. In response to the events this past August, industry experts estimated that it would cost consumers as much as $100 billion to upgrade transmission systems and site new lines to meet future reliability needs.

However, even this hefty price tag does not factor in the costs of additional generation, does not consider the rising cost of natural gas due to increasing electricity consumption, and does not include the environmental and other social costs of continued expansion of our presently centralized power system. Power lines are expensive and are rarely welcomed by the nearby public. The loan guarantees in the bill will help balance the need for new transmission lines by providing Federal resources to help improve existing ones.

In addition to addressing system operation and transmission needs, the bill also promotes sound system management. It establishes a Federal system benefits fund as a match for State programs.

Historically, regulated electric utility companies have provided a number of energy-related public services beyond simply supplying electricity that benefit the system as a whole. Such services have included bill payment assistance and energy conservation measures for low-income households, energy efficiency programs for residential and business customers, and pilot programs to promote renewable energy resources. More than 20 States, including my home State of Vermont, have public benefits programs. This bill will provide needed Federal matching money to States for these programs.

The Alliance to Save Energy estimates that a Federal program to match existing State public benefits programs would save 1.24 trillion kilowatt-hours of electricity over 20 years, and cut consumer energy bills by about $100 billion. My bill, which has the potential to save consumers $100 billion is far preferable to raising consumer electricity bills by the $100 billion to raise money for grid expansion.

The bill also establishes energy efficiency performance standards for utilities. The United States has experienced tremendous growth in electricity consumption over the past decade. Current estimates are that electricity consumption is increasing at roughly two percent per year.

Between 1993 and 1999, U.S. summer peak electricity use alone increased by 95,000 megawatts. This is the equivalent of adding a new, six-State New England to the Nation's electricity demand every fourteen months.

Energy experts estimate that as much as 50 percent of expected new demand over the next 20 years can be met through consumer efficiency and load management programs. Over the past two decades, utility demand-side efficiency programs have avoided the need for more than 100 300-megawatt power plants. However, with the advent of electricity deregulation, utility spending on these efficiency programs has dropped by almost half.

The Federal Government should seek to correct this trend, and this bill takes a strong first step in that direction by phasing in a requirement that utilities reduce their peak demand for power and their customers' power use between 2004 and 2013.

Finally, the bill enacts standards that enable increased on-site, or distributed, generation to reduce pressure on the grid and lessen the impact of a blackout should one occur. We have an obligation to ensure that the electricity grid is secure. We currently have a giant system consisting of almost 200,000 miles of interconnecting lines that constantly shift huge amounts of electricity throughout the country.

Such a giant and complex system, traversing miles of city and countryside, is inevitably subject to unforeseen problems. Simply making it bigger will never take away all uncertainty, nor can it eliminate the vulnerability of the grid to sabotage or terrorist attack. We should do all we can to make certain such vulnerabilities are reduced.

In summary, I am introducing this legislation because I feel that we should be cautious in our assumptions that the answer to our nation's reliability woes lies primarily in building a bigger, more expansive grid. Simply building more transmission lines is not the answer.

Investments in energy efficiency and on-site generation can significantly improve the reliability of the nation's electricity grid and in most cases will be cheaper, faster to implement and more environmentally friendly than large-scale grid expansion. We also must fill the regulatory gaps in the system, which my bill does. Congress should establish mandatory reliability standards and close other regulatory gaps left by state deregulation of the electricity sector. In addition, no national reliability program will be effective or complete without strong incentives for demand-side management programs, for efficiency and for on-site generation.

We cannot solve today's energy problems with yesterday's solutions. My bill is an innovative approach to ensuring electric reliability by maximizing energy efficiency, regulatory efficiency, and efficient investment. Given the high costs of power outages to our country, we cannot afford to do otherwise.

I invite my colleagues to join me in my efforts to advance energy security and reliability in the United States.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Electric Reliability Security Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—RELIABILITY

SEC. 101. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY.

''(a) DEFINITIONS.—In this section—

''(1) 'bulk power system' means the network of interconnected transmission facilities and generating facilities;

''(2) 'electric reliability organization' means a self-regulating organization certified by the Commission under subsection (c) whose purpose is to promote the reliability of the bulk power system; and

''(3) 'reliability standard' means a requirement to provide for reliable operation of the bulk power system approved by the Commission under this section.

''(b) JURISDICTION AND APPLICABILITY.—The Commission shall have jurisdiction, within the United States, over an electric reliability organization, any regional entities, and all users, owners and operators of the bulk power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards and enforcing compliance with this section. All users, owners and operators of the bulk power system shall comply with reliability standards that take effect under this section.

''(c) CERTIFICATION.—(1) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(2) Following the issuance of a Commission rule under paragraph (1), any person may submit an application to the Commission for certification as an electric reliability organization. The Commission may certify an applicant if the Commission determines that the applicant—

''(A) has the ability to develop, and enforce reliability standards that provide for an adequate level of reliability of the bulk power system;

''(B) has established rules that—

''(i) assure the independence of the applicant from the users and owners and operators of the bulk power system while assuring fair stakeholder representation in the selection of its directors and balanced decision making in any committee or subordinate organizational structure;

''(ii) allocate equitably dues, fees, and other charges among users for all activities under this section;

''(iii) provide fair and impartial procedures for enforcement of reliability standards through imposition of penalties (including limitations on activities, functions, or operations, or other appropriate sanctions) and

''(iv) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.

''(3) If the Commission receives 2 or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application the Commission concludes will best implement the provisions of this section.

''(d) RELIABILITY STANDARDS.—(1) An electric reliability organization shall file a proposed reliability standard or modification to a reliability standard with the Commission.

''(2) The Commission may approve a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the electric reliability organization with respect to the content of a proposed standard or modification to a reliability standard, but shall not defer with respect to its effect on competition.

''(3) The electric reliability organization and the Commission shall rebuttably presume that a proposal from a regional entity organized on an interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the electric reliability organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order an electric reliability organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(e) ENFORCEMENT.—(1) An electric reliability organization may impose a penalty on a user or owner or operator of the bulk power system if the electric reliability organization, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator of the bulk power system has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice with the Commission, which shall affirm, set aside, or modify the action.

''(2) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk power system has violated or threatens to violate a reliability standard.

''(3) The Commission shall establish regulations authorizing the electric reliability organization to enter into an agreement to delegate authority to a regional entity for the purpose of proposing and enforcing reliability standards (including related activities) if the regional entity satisfies the provisions of subparagraphs (A) and (B) of subsection (c)(2) and the agreement promotes effective and efficient administration of bulk power system reliability. The Commission may modify such delegation. The electric reliability organization and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an interconnection-wide basis promotes effective and efficient administration of bulk power system reliability and should be approved. Such regulation may provide that the Commission may assign the electric reliability organization's authority to enforce reliability standards directly to a regional entity consistent with the requirements of this paragraph.

''(4) The Commission may take such action as is necessary or appropriate against the electric reliability organization or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the electric reliability organization or a regional entity.

''(f) CHANGES IN ELECTRICITY RELIABILITY ORGANIZATION RULES.—An electric reliability organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the electric reliability organization. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c)(2).

''(g) COORDINATION WITH CANADA AND MEXICO.—(1) The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico.

''(2) The President shall use his best efforts to enter into international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the electric reliability organization in the United States and Canada or Mexico.

''(h) RELIABILITY REPORTS.—The electric reliability organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk power system in North America.

''(i) SAVINGS PROVISIONS.—(1) The electric reliability organization shall have authority to develop and enforce compliance with standards for the reliable operation of only the bulk power system.

''(2) This section does not provide the electric reliability organization or the Commission with authority to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard established under this section.

''(4) Not later than 90 days after the date of the application of the electric reliability organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the electric reliability organization.

''(5) The Commission, after consultation with the electric reliability organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) APPLICATION OF ANTITRUST LAWS.—(1) To the extent undertaken to develop, implement, or enforce a reliability standard, each of the following activities shall not, in any action under the antitrust laws, be deemed illegal per se—

''(A) activities undertaken by an electric reliability organization under this section;

''(B) activities of a user or owner or operator of the bulk power system undertaken in good faith under the rules of an electric reliability organization.

''(2) In any action under the antitrust laws, an activity described in paragraph (1) shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition and reliability.

''(3) For purposes of this subsection, the term 'antitrust laws' has the meaning given the term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that it includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that section 5 applies to unfair methods of competition.

''(k) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each state, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the electric reliability organization, a regional reliability entity, or the Commission regarding the governance of an existing or proposed regional reliability entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in

the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an interconnection-wide basis.

''(l) APPLICATION TO ALASKA AND HAWAII.—The provisions of this section apply only to the contiguous 48 states.''.

SEC. 102. MODEL ELECTRIC UTILITY WORKERS CODE.

Subtitle B of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 et seq.) is amended by adding at the end the following:

''SEC. 118. MODEL CODE FOR ELECTRIC UTILITY WORKERS.

''(a) IN GENERAL.—The Secretary shall develop by rule and circulate among the States for their consideration a model code containing standards for electric facility workers to ensure electric facility safety and reliability.

''(b) CONSULTATION.—In developing these standards, the Secretary shall consult with all interested parties, including representatives of electric facility workers.

''(c) NOT AFFECTING OCCUPATIONAL SAFETY AND HEALTH.—In issuing a model code under this section, the Secretary shall not, for purposes of section 4 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.''.

SEC. 103. INTERSTATE COMPACTS ON REGIONAL TRANSMISSION PLANNING.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 101) is amended by adding at the end the following:

''SEC. 216. INTERSTATE COMPACTS ON REGIONAL TRANSMISSION PLANNING.

''(a) CONSENT OF CONGRESS.—The consent of Congress is given for an agreement to establish a regional transmission planning agency if the Commission determines that the agreement would—

''(1) facilitate coordination among the States within a particular region with regard to the planning of future transmission, generation, and distribution facilities;

''(2) carry out State electric facility siting responsibilities more effectively;

''(3) meet the other requirements of this section and rules prescribed by the Commission under this section; and

''(4) otherwise be consistent with the public interest.

''(b) AUTHORITY TO CARRY OUT AGREEMENT.—(1) If the Commission determines that an agreement meets the requirements of subsection (a), the agency established under the agreement has the authority necessary or appropriate to carry out the agreement. This includes authority with respect to matters otherwise within the jurisdiction of the Commission, if expressly provided for in the agreement and approved by the Commission.

''(2) The Commission's determination under this section may be subject to any terms or conditions the Commission determines are necessary to ensure that the agreement is in the public interest.

''(c) CRITERIA.—(1) The Commission shall prescribe—

''(A) criteria for determining whether a regional transmission planning agreement meets subsection (a); and

''(B) standards for the administration of a regional transmission planning agency established under the agreement.

''(2) The criteria shall provide that, in order to meet subsection (a)—

''(A) a regional transmission planning agency must operate within a region that includes all tribal governments and all States and that are a party to the agreement;

''(B) a regional transmission planning agency must be composed of one or more members from each State and tribal government that is a party to the agreement;

''(C) each participating State and tribal government must vest in the regional transmission planning agency the authority necessary to carry out the agreement and this section; and

''(D) the agency must follow workable and fair procedures in making its respect to matters covered by this agreement, including a requirement that all decisions of the agency be made by majority vote (or majority weighted votes) of the members present and voting.

''(3) The criteria may include any other requirement for meeting subsection (a) that the Commission determines is necessary to ensure that the regional transmission planning agency's organization, practices, and procedures are sufficient to carry out this section and the rules issued under it.

''(d) TERMINATION OF APPROVAL.—The Commission, after notice and opportunity for comment, may terminate the approval of an agreement under this section at any time if it determines that the regional transmission planning agency fails to comply with this section or Commission prescriptions under subsection (c) or that the agreement is contrary to the public interest.

''(e) REVIEW.—Section 313 applies to a rehearing before a regional transmission planning agency and judicial review of any action of a regional transmission planning agency. For this purpose, when section 313 refers to 'Commission' substitute 'regional transmission planning agency' and when section 313(b) refers to 'licensee or public utility' substitute 'entity'.''.

SEC. 104. ELECTRICITY OUTAGE INVESTIGATION.

Part III of the Federal Power Act (16 U.S.C. 824) is amended—

(1) by redesignating sections 320 and 321 (16 U.S.C. 825r, 791a) as 321 and 322 respectively; and

(2) by inserting after section 319 (16 U.S.C. 825q) the following:

''SEC. 320. ELECTRICITY OUTAGE INVESTIGATION BOARD.''

''(a) ESTABLISHMENT.—There is established an Electricity Outage Investigation Board that shall be an independent establishment within the Executive Branch

''(b) MEMBERSHIP.—The Board shall consist of 7 members and shall include—

(1) the Secretary of Energy or his or her designee;

''(2) the Chairman of the Federal Regulatory Commission or his or her designee;

''(3) a representative of the National Academy of Sciences appointed by the President; a representative appointed by the Majority leader of the Senate; a representative appointed by the Minority leader of the Senate; a representative appointed by the Majority Leader of the House of Representatives; and a representative appointed by the Minority Leader of the House of Representatives. Each such appointee shall demonstrate relevant expertise in the field of electricity generation, transmission and distribution, and such other expertise as will best assist in carrying out the duties of the Board.

''(c) TERMS.—The Secretary of Energy and the Chairman of the Federal Regulatory Commission shall be permanent members. The remaining members shall each serve for a term of three years.

''(d) DUTIES.—The Board shall—

''(1) upon request by Congress or by the President investigate a major bulk-power system failure in the United States to determine the causes of the failure;

''(2) report expeditiously to the Congress and to the President the results of the investigation; and 14

''(3) recommend to the Congress and the President actions to minimize the possibility of future bulk-power system failure.

''(e) COMPENSATION.—Each member of the Board shall be paid at the rate payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board. Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under section 5702 and 5703 of title 5, United States Code.''.

SEC. 105. STUDY ON RELIABILITY OF U.S. ELECTRICITY GRID.

(a) STUDY ON RELIABILITY.—Within 45 days after enactment of this Act, the Secretary of Energy shall contract with the National Academy of Sciences to conduct a study on the reliability of the U.S. electricity grid. The study shall examine the effectiveness of the current U.S. electricity transmission and distribution system at providing efficient, secure and affordable power to U.S. consumers.

(b) CONTENTS.—The study shall include an analysis of—

(1) vulnerability of the transmission and distribution system to disruption by natural, mechanical or human causes including sabotage;

(2) the most efficient and cost-effective solutions for dealing with vulnerabilities or other problems of the U.S. electricity transmission and distribution system, including a comparison of investments in:

''(A) efficiency;

''(B) distributed generation;

''(C) technical advances in software and other devices to improve the 15 efficiency and reliability of the grid;

''(D) new power line construction; and ''(E) any other relevant matters.

(c) REPORT.—The contract shall provide that within six months of entering into the contract, the National Academy of Sciences shall submit a report to the President and Congress detailing findings and recommendations of the study.

TITLE II—EFFICIENCY

SEC. 201. SYSTEM BENEFITS FUND.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term ''Board'' means the Board established under subsection (b).

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) FUND.—The terms ''Fund'' means the System Benefits Trust Fund established by under subsection (c).

(5) RENEWABLE ENERGY.—The term ''renewable energy'' means electricity generated from wind, ocean energy, organic waste (excluding incinerated municipal solid waste), or biomass (including anaerobic digestion from farm systems and landfill gas recovery) or a geothermal, solar thermal, or photovoltaic source. For purposes of this paragraph, a farm system is an electric generating facility that generates electric energy from the anaerobic digestion of agricultural waste produced by farming that is located on the farm where substantially all of the waste used is produced.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) BOARD.—

(1) ESTABLISHMENT.—The Secretary shall establish a System Benefits Trust Fund

Board to carry out the functions and responsibilities described in this section.

(2) MEMBERSHIP.—The Board shall be composed of—

(A) 1 representative of the Federal Energy Regulatory Commission appointed by the Federal Energy Regulatory Commission;

(B) 2 representatives of the Secretary of Energy appointed by the Secretary;

(C) 2 persons nominated by the National Association of Regulatory Utility Commissioners and appointed by the Secretary;

(D) 1 person nominated by the National Association of State Utility Consumer Advocates and appointed by the Secretary;

(E) 1 person nominated by the National Association of State Energy Officials and appointed by the Secretary;

(F) 1 person nominated by the National Energy Assistance Directors' Association and appointed by the Secretary; and

(G) 1 representative of the Environmental Protection Agency appointed by the Administrator of the Environmental Protection Agency.

(3) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Board shall establish an account or accounts at one or more financial institutions, which account or accounts shall be known as the System Benefits Trust Fund consisting of amounts deposited in the fund under subsection (e).

(2) STATUS OF FUND.—The wires charges collected under subsection (e) and deposited in the Fund—

(A) shall not constitute funds of the United States;

(B) shall be held in trust by the Board solely for the purposes stated in subsection (d); and

(C) shall not be available to meet any obligations of the United States.

(d) USE OF FUND.—

(1) FUNDING OF STATE PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States and Indian tribes for the support of State or tribal public benefits programs relating to—

(A) energy conservation and efficiency;

(B) renewable energy sources;

(C) assisting low-income households in meeting their home energy needs; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall distribute all amounts in the Fund to States or Indian tribes to fund public benefits programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the Fund share of a public benefits program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States and Indian tribes exceeds the maximum projected revenues of the Fund, the matching funds distributed to the States and Indian tribes shall be reduced by an amount that is proportionate to each State's annual consumption of electricity compared to the Nation's aggregate annual consumption of electricity.

(iii) ADDITIONAL STATE OR INDIAN TRIBE FUNDING.—A State or Indian tribe may apply funds to public benefits programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for public benefits programs funded under this section for approval by the Secretary.

(4) APPLICATION.—Not later than August 1 of each year beginning in 2004, a State or Indian tribe seeking matching funds for the following fiscal year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible public benefits program;

(B) stating the amount of State or Indian tribe funds earmarked for the program; and

(C) summarizing how System Benefit Trust Fund funds from the previous calendar year (if any) were spent by the State and what the State accomplished as a result of these expenditures.

(e) WIRES CHARGE.—

(1) DETERMINATION OF NEEDED FUNDING.—Not later than September 1 of each year, the Board shall determine and inform the Commission of the aggregate amount of wires charges that will be necessary to be paid into the Fund to pay matching funds to States and Indian tribes and pay the operating costs of the Board in the following fiscal year.

(2) IMPOSITION OF WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Commission shall impose a nonbypassable, competitively neutral wires charge, to be paid directly into the Fund by the operator of the wire, on electricity carried through the wire (measured as the electricity exits at the busbar at a generation facility, or, for electricity generated outside the United States, at the point of delivery to the wire operator's system) in interstate commerce.

(B) AMOUNT.—The wires charge shall be set at a rate equal to the lesser of—

(i) 1.0 mills per kilowatt hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the calendar year for distribution by the Board under subsection (c).

(4) PENALTIES.—The Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(F) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm of independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary and the Commission shall have access to all books, accounts, reports, files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary, the Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set forth the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital, and surplus or deficit;

(II) a surplus or deficit analysis;

(III) a statement of income and expenses;

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) any recommendations with respect to the Fund that the Secretary or the Commission may have.

SEC. 202. ELECTRICITY EFFICIENCY PERFORMANCE STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 note) is amended by adding at the end the following:

"SEC. 609. FEDERAL ELECTRICITY EFFICIENCY PERFORMANCE STANDARD.

''(a) IN GENERAL.—Each electric retail supplier shall implement energy efficiency and load reduction programs and measures to achieve verified improvements in energy efficiency and peak load reduction in retail customer facilities and the distribution systems that serve them.

''(b) POWER SAVINGS.—Such programs shall produce savings in total peak power demand and total electricity use by retail customers by an amount that is equal to or greater than the following percentages relative to the peak demand and electricity used in that year by the retail electric supplier's customers:

	Reduction in Demand	Reductions in Use
In calendar year 2004	1%	.75%
In calendar year 2005	2%	1.5%
In calendar year 2007	4%	3.0%
In calendar year 2009	6%	4.5%
In calendar year 2011	8%	6.0%
In calendar year 2013	10%	7.5%

''(c) BEGINNING DATE.—For purposes of this section, savings shall be counted only for measures installed after January 1, 2003.

''(d) RULEMAKING.—The Secretary of Energy is directed to establish, by rule, procedures and standards for counting and independently verifying energy and demand savings for purposes of enforcing the energy efficiency performance standards imposed by this section. Such rule shall also include procedures and a schedule for reporting findings to the Department of Energy and for making such reports available to the public. The Secretary shall consult with the association representing the nation's public utility regulators, and with the association representing the nation's state energy officials in developing these procedures and standards. This rulemaking shall be completed no later than June 30, 2004.

''(e) REPORTING.—By June 30, 2006, and every two years thereafter, each retail electric supplier shall file with the state public utilities commission in each state in which it supplies service to retail customers, a report demonstrating that it has taken action to comply with the energy efficiency performance standards of this section. These reports shall include independent verification of the estimated savings pursuant to standards established by the Secretary. A state public utilities commission may accept such report as filed, or may review and investigate the accuracy of the report. Each state public utilities commission shall make findings on any deficiencies relative to the requirements in section 2, and shall create a remedial order for the correction of any deficiencies that are found.

''(f) UTILITIES OUTSIDE STATE JURISDICTION.—Electric retail suppliers not subject to the jurisdiction of state public utilities commissions shall report to their governing bodies. Such reports shall include independent verification of the estimated savings pursuant to standards established by the Secretary.

''(g) PROGRAM PARTICIPATION.—Electric retail suppliers may demonstrate satisfaction of this standard, in whole or part, by savings achieved through participation in statewide, regional, or national programs that can be demonstrated to significantly improve the efficiency of electric distribution and use. Verified efficiency savings resulting from such programs may be assigned to each participating retail supplier based upon their

degree of participation in such programs. Electric retail suppliers may also purchase rights to extra savings achieved by other electric retail suppliers, provided that the selling supplier or another electric retail supplier does not also take credit for those savings.

''(h) REMEDIES FOR FAILURE TO COMPLY.—In the event that any retail electric supplier fails to achieve its energy savings and/or load reduction target for a specific year, any aggrieved party may enter suit and seek prompt remedial action before a state public utilities commission or an appropriate governing body in the case of electric retail suppliers not subject to state public utility commission jurisdiction. The state public utilities commission or other appropriate governing body shall have a maximum of one year to craft a remedy. However, if a state public utilities commission or other governing body certifies that it has inadequate resources or authority to promptly resolve enforcement actions under this section, or fails to take action within the time period specified above, enforcement may be sought in Federal district court. If a commission or court determines that energy savings and/or load reduction targets for a specific year have not been achieved, the commission or court shall determine the amount of the deficit and shall fashion an equitable remedy to restore the lost savings as soon as practicable. Such remedies may include a refund to retail electric customers of an amount equal to the retail cost of the electricity consumed due to the failure to reach the target, and the appointment of a special master to administer a bidding system to procure the energy and demand savings equal to 125% of the deficit.

SEC. 203. APPLIANCE EFFICIENCY.

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)(3)) is amended by striking subparagraph (B) and inserting instead:

''(B) The Secretary shall publish a final rule no later than January 1, 2007, to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended. Such rule shall address both system annual energy use and peak electric demand and may include more than one efficiency descriptor. Such rule shall apply to products manufactured on or after January l, 2010.''.

SEC. 204. LOAN GUARANTEES.

(a) AUTHORITY.—The Secretary may guarantee not more than 50 percent of the principal of any loan made to a qualifying entity for eligible activities under this section.

(b) CONDITIONS.—(1) The Secretary shall not guarantee a loan under this section unless—

(A) the guarantee is a qualifying entity;

(B) the guarantee has filed an application with the Secretary;

(C) the project, activity, program or system for which the loan is made is an eligible activity; and

(D) the project, activity, program or system for which the loan is made will significantly enhance the reliability, security, efficiency and cost-effectiveness of electricity generation, transmission or distribution.

(2) The Secretary shall give priority to guaranteed loans under this section for eligible activities which accomplish the objectives of this section in the most environmentally beneficial manner.

(3) A loan guaranteed under this section shall be made by a financial institution subject to the examination of the Secretary.

(c) RULES.—Not later than 1 year after enactment of this section, the Secretary shall publish a final rule establishing guidelines for loan requirements under this section. The rules shall establish—

(1) criteria for determining which entities shall be considered qualifying entities eligible for loan guarantees under this section;

(2) criteria for determining which projects, activities, programs or systems shall be considered eligible activities eligible for loan guarantees in accordance with the purposes of this section;

(3) loan requirements including term, maximum size, collateral requirements; and

(4) any other relevant features.

(d) LIMITATION ON SIZE.—The Secretary may make commitments to guarantee loans only to the extent that the total principal, any part of which is guaranteed, will not exceed $10,000,000,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(F) DEFINITIONS.—In this section:

(1) The term ''eligible activity'' means—

(A) advanced technologies for high-efficiency electricity transmission control and operation, including high-efficiency power electronics technologies (including software-controlled computer chips and sensors to diagnose trouble spots and re-route power into appropriate areas), high-efficiency electricity storage systems, and high-efficiency transmission wire or transmission cable system;

(B) distributed generation systems fueled solely by—

(i) solar, wind, biomass, geothermal, or ocean energy;

(ii) landfill gas;

(iii) natural gas systems utilizing best available control technology;

(iv) fuel cells; or

(v) any combination of the above.

(C) combined heat and power systems; and

(D) energy efficiency systems producing demonstrable electricity savings.

(2) The term ''qualifying entity'' means an individual, corporation, partnership, joint venture, trust or other entity identified by the Secretary of Energy under subsection (c)(1) as eligible for a guaranteed loan under this section.

(3) The term ''Secretary'' means the Secretary of Energy.

TITLE III—ON-SITE GENERATION

SEC. 301. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111 (d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(13) NET METERING.—(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of this paragraph.''.

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(i) NET METERING.—In undertaking the consideration and making the determination concerning net metering established by section 111(d)(13), the following shall apply—

''(1) RATES AND CHARGES.—An electric utility—

''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

''(2) MEASUREMENT.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electricity consumed by the owner or operator of an on-site generating facility during a billing period in accordance with normal metering practices.

''(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRIC ENERGY GENERATED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with normal metering practices.

''(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance 29 with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—The Commission, after consultation with State regulatory authorities and nonregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

''(7) DEFINITIONS.—-For purposes of this subsection:

''(A) the term 'eligible on-site generating facility' means—

''(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 25 kilowatts or less; or

''(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 1000 kilowatts or less

that is fueled solely by a renewable energy resource.

''(B) the term 'renewable energy resource' means solar, wind, biomass, geothermal or wave energy; landfill gas; fuel cells; or a combined heat and power system.

''(C) the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.''.

''(8) STATE AUTHORITY.—An electric utility must provide net metering services to electric consumers until the cumulative generating capacity of net metering systems equals 1.0 percent of the utility's peak demand during the most recent calendar year.

This subsection does not preclude a state from imposing additional requirements regarding the amount of net metering available within a state consistent with the requirements in this section.

SEC. 302. INTERCONNECTION.

(a) DEFINITIONS.—Section 3 of the Federal Power act (16 U.S.C. 796) is amended(1) by striking paragraph 23 and inserting the following:

''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any entity (notwithstanding section 201(f)) that owns, controls or operates an electric power transmission facility that is used for the sale of electric energy.'' and (2) by adding at the end the following:

''(26) APPROPRIATE REGULATORY AUTHORITY.—The term 'appropriate regulatory authority means—

''(A) the Commission;

''(B) a State commission;

''(C) a municipality; or

''(D) a cooperative that is self-regulating under State law and is not a public utility.

''(27) GENERATING FACILITY.—The term 'generating facility' means a facility that generates electric energy.

''(28) LOCAL DISTRIBUTION UTILITY.—The term 'local distribution facility' means an entity that owns, controls or operates an electric power distribution facility that is used for the sale of electric energy.

''(29) NON-FEDERAL REGULATORY AUTHORITY.—The term 'non-Federal regulatory authority' means an appropriate regulatory authority other than the Commission.''.

(b) INTERCONNECTION TO DISTRIBUTION FACILITIES.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following:

''(e) INTERCONNECTION TO DISTRIBUTION FACILITIES.—

''(1) Interconnection.—(A) A local distribution utility shall interconnect a generating facility with the distribution facilities of the local distribution utility if the owner of the generating facility—

''(i) complies with the final rule promulgated under paragraph (2); and

''(ii) pays the costs of the interconnection.

''(B) The costs of the interconnection—

''(i) shall be just and reasonable, and not unduly discriminatory or preferential, as determined by the appropriate regulatory authority; and

''(ii) shall be comparable to the costs charged by the local distribution utility for interconnection by any similarly situated generating facility to the distribution facilities of the local distribution utility.

''(C) The right of a generating facility to interconnect under subparagraph (A) does not relieve the generating facility or the local distribution utility of other Federal, State or local requirements.

''(2) RULE.—Not later than six months after the date of enactment of this subparagraph, the Commission shall promulgate final rules establishing reasonable and appropriate technical standards for the interconnection of a generating facility with the distribution facilities of a local distribution utility.

''(3) RIGHT TO BACKUP POWER.—(A) In accordance with subparagraph (B) a local distribution utility shall offer to sell backup power to a generating facility that has interconnected with the local distribution utility to the extent that the local distribution utility—

''(i) is not subject to an order of a non-Federal regulatory authority to provide open access to the distribution facilities of the local distribution utility;

''(ii) has not offered to provide open access to the distribution facilities of the local distribution utility; or

''(iii) does not allow a generating facility to purchase backup power from another entity using the distribution facilities of the local distribution utility.

''(B) A sale of backup power under subparagraph (A) shall be at such a rate, and under such terms and conditions as are just and reasonable and not unduly discriminatory or preferential, taking into account the actual incremental cost, whenever incurred by the local distribution utility, to supply such backup power service during the period in which the backup power service is provided, as determined by the appropriate regulatory authority.

''(C) A local distribution utility shall not be required to offer backup power for resale to any entity other than the entity for which the backup power is purchased.

''(D) To the extent backup power is used to serve a new or expanded load on the distribution system, the generating facility shall pay any reasonable cost associated with any transmission, distribution or generating upgrade required to provide such service.

(c) INTERCONNECTION TO TRANSMISSION FACILITIES.—Section 210 of the Federal Power Act (16 U.S.C. 824i) (as amended by subsection (b)) is amended by inserting after subsection (e) the following:

''(f) INTERCONNECTION TO TRANSMISSION FACILITIES.—

''(1) INTERCONNECTION.—(A) Notwithstanding subsections (a) and (c), a transmitting utility shall interconnect a generating facility with the transmission facilities of the transmitting utility if the owner of the generating facility

''(i) complies with the final rules promulgated under paragraph (2); and

''(ii) pays the costs of interconnection.

''(B) Subject to subparagraph (C), the costs of interconnection—

''(i) shall be just and reasonable and not unduly discriminatory or preferential; and

''(ii) shall be comparable to the costs charged by the transmitting utility for interconnection by any similarly situated generating facility to the transmitting facilities of the transmitting utility.

''(C) A non-Federal regulatory authority that is authorized under Federal law to determine the rates for transmission service shall be authorized to determine the costs of any interconnection under this subparagraph.

''(D) The right of a generating facility to interconnect under subparagraph (A) does not relieve the generating facility or the transmitting utility of other Federal, State or local requirements.

''(2) RULE.—Not later than six months after the date of enactment of this subparagraph, the Commission shall promulgate rules establishing reasonable and appropriate technical standards for the interconnection of a generating facility with the transmission facilities of a transmitting utility.

''(3) RIGHT TO BACKUP POWER.—(A) In accordance with subparagraph (B), a transmitting utility shall offer to sell backup power to a generating facility that has interconnected with the transmitting utility unless

''(i) Federal or State law allows a generating facility to purchase backup power from an entity other than the transmitting utility; or

''(ii) a transmitting utility allows a generating facility to purchase backup power from an entity other than the transmitting utility using the transmission facilities of the transmitting utility and the transmission facilities of any other transmitting utility.

''(B) A sale of backup power under subparagraph (A) shall be at such a rate and under such terms and conditions as are just and reasonable and not unduly discriminatory or preferential, taking into account the actual incremental cost, whenever incurred by the local distribution utility, to supply such backup power service during the period in which the backup power service is provided, as determined by the appropriate regulatory authority.

''(C) A transmitting utility shall not be required to offer backup power for resale to any entity other than the entity for which the backup power is purchased.

''(D) To the extent backup power is used to serve a new or expanded load on the transmission system, the generating facility shall pay any reasonable costs associated with any transmission, distribution or generation upgrade required to provide such service.

(D) CONFORMING AMENDMENTS.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended—

(1) in subsection (a)(1)—

(A) by inserting ''transmitting utility, local distribution utility,'' after ''electric utility,''; and

(B) in subparagraph (A) by inserting ''any transmitting utility,'' after ''small power production facility,'';

(2) in subsection (b)(2) by striking ''an evidentiary hearing'' and inserting ''a hearing'';

(3) in subsection (c)(2)—

(A) in subparagraph (B) by striking ''or'' at the end;

(B) in subparagraph (C) by striking ''and'' at the end and inserting ''or''; and

(C) by adding at the end the following:

''(D) promote competition in electricity markets, and''; and

(4) in subsection (d) by striking the last sentence.

SEC. 303. ON-SITE GENERATION FOR EMERGENCY FACILITIES.

(a) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall establish a demonstration program for the implementation of innovative technologies for renewable uninterruptible power supply systems located in eligible buildings and for the dissemination of information on such systems to interested parties.

(b) LIMIT ON FEDERAL FUNDING.—The Secretary shall provide no more than 40 percent of the costs of projects funded under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated $30,000,000 for each of the fiscal years 2004 through 2007 to carry out this section.

(d) DEFINITIONS.—For purposes of this section:

(1) The term ''eligible facility'' means a building owned or operated by a State or local government that is used for critical governmental dispatch and communication; police, fire or emergency services; traffic control systems; or public water or sewer systems.

(2) The term ''Secretary'' means the Secretary of Energy;

(3) The term ''renewable uninterruptible power supply system'' means a system designed to maintain electrical power to critical loads in a public facility in the event of a loss or disruption in conventional grid electricity, where such system derives its energy production or storage capacity solely from solar, wind, biomass, geothermal or ocean energy, natural gas; landfill gas; a fuel cell device; or from a combination of the above.

By Mr. LEAHY (for himself and Mr. SPECTER):

S. 1755. A bill to amend the Richard B. Russell National School Lunch Act

to provide grants to support farm-to-cafeteria projects; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, I am pleased to introduce today, with my respected colleague from Pennsylvania, Senator SPECTER, the Farm-to-Cafeteria Projects Act of 2003. This important bipartisan proposal will support grassroots efforts all across our Nation to bring school cafeterias and local farms together.

It is amazing how many kids do not know where the food that they eat comes from. It is also amazing how far some farm products travel to get to the cafeteria table. The Farm-to-Cafeteria Projects Act of 2003 will establish a U.S. Department of Agriculture, USDA, grant program to help schools connect children with local farms by bringing fresh local foods to their cafeterias and by implementing hands-on nutrition education programs.

Communities all across our Nation are beginning to explore the concept of linking farms and cafeterias. In my home State of Vermont, from rural towns like Jay and Westfield to the city of Burlington, schools have experimented with how they can integrate the daily service of school meals with classroom learning and local agriculture. And as more schools create these connections, more and more want to learn how they too can start a program. Oftentimes these are very small schools, which do not have the staff or money to kick off a project on their own. With just a little money and some technical assistance, these schools can create a program that teaches kids about good nutrition, shows them the importance of agriculture, and supports local farms by keeping food dollars within the community. In introducing The Farm-to-Cafeteria Projects Act of 2003, Senator SPECTER and I seek to provide these communities with the assistance they need to get such school and farm partnerships off the ground. I urge my colleagues to join us in support of this exciting initiative, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Farm-to-Cafeteria Projects Act of 2003''.

SEC. 2. GRANTS TO SUPPORT FARM-TO-CAFETERIA PROJECTS.

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following:

''(q) GRANTS TO SUPPORT FARM-TO-CAFETERIA PROJECTS.—

''(1) IN GENERAL.—To improve access to local foods in schools and institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)), the Secretary shall provide competitive grants to nonprofit entities and educational institutions to establish and carry out farm-to-cafeteria projects that may include the purchase of equipment, the procurement of foods, and the provision of training and education activities.

''(2) PREFERENCE FOR CERTAIN PROJECTS.—In selecting farm-to-cafeteria projects to receive assistance under this subsection, the Secretary shall give preference to projects designed to—

''(A) procure local foods from small- and medium-sized farms for the provision of foods for school meals;

''(B) support nutrition education activities or curriculum planning that incorporates the participation of school children in farm and agriculture education projects; and

''(C) develop a sustained commitment to farm-to-cafeteria projects in the community by linking schools, agricultural producers, parents, and other community stakeholders.

''(3) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

''(A) TECHNICAL ASSISTANCE.—In carrying out this subsection, the Secretary may provide technical assistance regarding farm-to-cafeteria projects, processes, and development to an entity seeking the assistance.

''(B) SHARING OF INFORMATION.—The Secretary may provide for the sharing of information concerning farm-to-cafeteria projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate means.

''(4) GRANTS.—

''(A) IN GENERAL.—From amounts made available to carry out this subsection, the Secretary shall make grants to assist private nonprofit entities and educational institutions to establish and carry out farm-to-cafeteria projects.

''(B) MAXIMUM AMOUNT.—The maximum amount of a grant provided to an entity under this subsection shall be $100,000.

''(C) MATCHING FUNDS REQUIREMENTS.—

''(i) IN GENERAL.—The Federal share of the cost of establishing or carrying out a farm-to-cafeteria project that receives assistance under this subsection may not exceed 75 percent of the cost of the project during the term of the grant, as determined by the Secretary.

''(ii) FORM.—In providing the non-Federal share of the cost of carrying out a farm-to-cafeteria project, the grantee shall provide the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

''(iii) SOURCE.—An entity may provide the non-Federal share through State government, local government, or private sources.

''(D) ADMINISTRATION.—

''(i) SINGLE GRANT.—A farm-to-cafeteria project may be supported by only a single grant under this subsection.

''(ii) TERM.—The term of a grant made under this subsection may not exceed 3 years.

''(5) EVALUATION.—Not later than January 30, 2008, the Secretary shall—

''(A) provide for the evaluation of the projects funded under this subsection; and

''(B) submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the evaluation.

''(6) FUNDING.—

''(A) IN GENERAL.—On October 1, 2002, and on each October 1 thereafter through October 1, 2007, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection $10,000,000, to remain available until expended.

''(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.''.

By Mr. CONRAD (for himself, Mr. SMITH, Mr. BREAUX, Mr. COCHRAN, Ms. LANDRIEU, and Mr. CRAIG):

S. 1756. A bill to amend the Internal Revenue Code of 1986 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by providing additional sources of revenue to the Fund, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Coal Industry Retiree Health Benefit Stability and Fairness Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FINANCING PROVISIONS

Subtitle A—Federal Funds

SEC. 101. MANDATORY TRANSFER OF GENERAL FUNDS TO COMBINED BENEFIT FUND.

(a) IN GENERAL.—Section 9705 (relating to transfers to the Combined Benefit Fund) is amended by adding at the end the following new subsection:

''(c) MANDATORY TRANSFERS FROM GENERAL FUND.—

''(1) IN GENERAL.—There are hereby authorized and appropriated, out of any amounts in the Treasury not otherwise appropriated, to the Combined Fund such sums as may be necessary to—

''(A) pay any benefit or administrative costs of unassigned beneficiaries of the Combined Fund remaining after the transfer under subsection (b), and

''(B) eliminate any annual deficit in any premium account of the Combined Fund as certified by the Trustees of the Combined Fund.

Deficits referred to in subparagraph (B) shall be certified by the trustees only after utilizing and taking into account all premiums and other government reimbursements to the Fund.

''(2) USE OF FUNDS.—Any amounts transferred under paragraph (1) shall be available without fiscal year limitation.

''(3) TRANSFER.—The Secretary of the Treasury shall transfer amounts appropriated under paragraph (1) on October 1 of each fiscal year.''.

(b) TRANSFER FROM ABANDONED MINE RECLAMATION FUND.—Section 9705(b)(2) (relating to use of funds) is amended to read as follows:

''(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to pay any benefit or administrative costs of unassigned beneficiaries of the Combined Fund for the plan year in which transferred.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 2003.

SEC. 102. ANNUAL AUDIT.

(a) IN GENERAL.—Section 9702 (relating to establishment of the Combined Fund) is amended by adding at the end the following:

''(d) ANNUAL AUDIT.—

''(1) AUDIT.—The Comptroller General of the United States shall conduct an annual audit of the Combined Fund. Such audit shall include—

''(A) a review of the progress the Combined Fund is making toward a managed care system as required under this subchapter, and

''(B) a review of the use of, and necessity for, amounts transferred to the Combined Fund under section 9705(c).

''(2) REPORT.—The Comptroller General shall report the results of any audit under paragraph (1) to the Secretary of the Treasury and to the appropriate committees of Congress, including the Comptroller General's recommendations (if any) as to any administrative savings which may be achieved without reducing the effective level of benefits under section 9703.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years of the Combined Fund beginning after the date of the enactment of this Act.

SEC. 103. APPOINTMENT OF GOVERNMENT TRUSTEES.

(a) IN GENERAL.—Section 9702(b)(1) (relating to the Board of Trustees), as amended by section 201(c), is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ''; or'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) 2 persons designated by the Secretary of the Treasury.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Premiums

SEC. 111. MODIFICATIONS OF PREMIUMS TO REFLECT TRANSFERS FROM GENERAL FUND.

(a) ELIMINATION OF UNASSIGNED BENEFICIARIES PREMIUM.—Section 9704(d) (establishing unassigned beneficiaries premium) is amended to read as follows:

''(d) UNASSIGNED BENEFICIARIES PREMIUM.—

''(1) PLAN YEARS ENDING ON OR BEFORE SEPTEMBER 30, 2003.—For plan years ending on or before September 30, 2003, the unassigned beneficiaries premium for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

''(2) PLAN YEARS BEGINNING ON OR AFTER OCTOBER 1, 2003.—For plan years beginning on or after October 1, 2003, there shall be no unassigned beneficiaries premium.''.

(b) PREMIUM ACCOUNTS.—

(1) CREDITING OF ACCOUNTS.—Section 9704(e)(1) (relating to premium accounts; adjustments) is amended by inserting ''and amounts transferred under section 9705 (b) or (c)'' after ''premiums received''.

(2) SHORTFALLS.—Section 9704(e)(3) (relating to shortfalls and surpluses) is amended—

(A) by striking ''shortfall or'' each place it appears in subparagraph (A),

(B) by striking ''reduced or increased, whichever is applicable,'' in subparagraph (A) and inserting ''reduced'',

(C) by striking ''or the unassigned beneficiaries premium account'' in subparagraph (B), and

(D) by striking ''SHORTFALLS AND SURPLUSES'' in the heading and inserting ''SURPLUSES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years of the Combined Fund beginning after September 30, 2003.

SEC. 112. REFUNDS TO CERTAIN OPERATORS.

(a) IN GENERAL.—Section 9704 (relating to the liability of assigned operators) is amended by adding at the end the following new subsection:

''(j) REFUNDS TO CERTAIN OPERATORS.—The Combined Fund shall, before December 31, 2003, refund to an assigned operator which was an assigned operator prior to the date of the enactment of this subsection (and any related person to such operator) an amount equal to the sum of—

''(1) any amount paid by such operator or person to the Combined Fund (and not previously refunded) by reason of the operator having been a signatory to a pre-1974 coal wage agreement, and

''(2) interest on the amount under paragraph (1) at the overpayment rate established under section 6621 for the period from the payment of such amount to the refund under this subsection.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 113. REDUCTION IN ANNUAL PREMIUMS TO COMBINED BENEFIT FUND IF SURPLUS EXISTS.

(a) IN GENERAL.—Part II of subchapter B of chapter 99 (relating to financing of Combined Benefit Fund) is amended by inserting after section 9704 the following new section:

''SEC. 9704A. REDUCTIONS IN HEALTH BENEFIT PREMIUM IF SURPLUS EXISTS.

''(a) GENERAL RULE.—If this section applies to any plan year, the per beneficiary premium used for purposes of computing the health benefit premium under section 9704(b) for the plan year shall be the reduced per beneficiary premium determined under subsection (c).

''(b) YEARS TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section applies to any plan year beginning after September 30, 2003, if the trustees determine that the Combined Fund has an excess reserve for the plan year.

''(2) EXCESS RESERVE.—For purposes of this section—

''(A) IN GENERAL.—The term 'excess reserve' means, with respect to any plan year, the excess (if any) of—

''(i) the projected net assets as of the close of the test period for the plan year, over

''(ii) the projected 3-month asset reserve as of such time.

''(B) PROJECTED NET ASSETS.—For purposes of subparagraph (A)(i), the projected net assets shall be the amount of the net assets which the trustees determine will be available at the end of the test period for projected fund benefits. Such determination shall be made in the same manner used by the Combined Fund to calculate net assets available for projected fund benefits in the Statement of Net Assets (Deficits) Available for Fund Benefits for purposes of the monthly financial statements of the Combined Fund for the plan year beginning October 1, 2003.

''(C) PROJECTED 3-MONTH ASSET RESERVE.—For purposes of subparagraph (A)(ii), the projected 3-month asset reserve is an amount equal to 25 percent of the projected expenses (including administrative expenses) from the health benefit premium account and unassigned beneficiaries premium account for the plan year immediately following the test period. The determination of such amount shall be based on the 10-year forecast of the projected net assets and cash balance of the Combined Fund prepared annually by an actuary retained by the Combined Fund.

''(D) TEST PERIOD.—For purposes of this section, the term 'test period' means, with respect to any plan year, that plan year and the following plan year.

''(c) REDUCED PER BENEFICIARY PREMIUM.—For purposes of this section, the reduced per beneficiary premium for any plan year to which this section applies is the per beneficiary premium determined under section 9704(b)(2) without regard to this section, reduced (but not below zero) by—

''(1) the excess reserve for the plan year, divided by

''(2) the total number of eligible beneficiaries which are assigned to assigned operators under section 9706 as of the close of the preceding plan year.

''(d) TERMINATION OF PREMIUM REDUCTION.—If, on any day during a plan year to which this section applies, the Combined Fund has net assets available for projected fund benefits (determined in the same manner as projected net assets under subsection (b)(2)(B)) in an amount less than the projected 3-month asset reserve determined under subsection (b)(2)(C) for the plan year—

''(1) this section shall not apply to months in the plan year beginning after such day, and

''(2) the monthly installment under section 9704(g)(1) for such months shall be equal to the amount which would have been determined if the health benefits premium under section 9704(b) had not been reduced under this section for the plan year.''

(b) CONFORMING AMENDMENTS.—

(1) Section 9704(a) (relating to annual premiums) is amended by striking ''Each'' and inserting ''Subject to section 9704A, each''.

(2) The table of sections for part II of subchapter B of chapter 99 is amended by inserting after the item relating to section 9704 the following new item:

''Sec. 9704A. Reductions in health benefit premium if surplus exists.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years of the Combined Fund beginning after September 30, 2003.

SEC. 114. REFUND OF CONTRIBUTIONS PAID BY CERTAIN SMALL ENTITIES TO UNITED MINE WORKERS COMBINED BENEFIT FUND.

(a) IN GENERAL.—Part II of subchapter B of chapter 99, as amended by section 113, is amended by inserting after section 9704A the following new section:

"SEC. 9704B. REFUNDS OF ANNUAL PREMIUMS OF CERTAIN SMALL ENTITIES.

''(a) GENERAL RULE.—The Combined Fund shall refund to each eligible small entity any premiums paid by the entity to the Combined Fund under section 9704 for any plan year of the Combined Fund which began before October 1, 2003. This section shall not apply to any premium which was previously refunded.

''(b) ELIGIBLE SMALL ENTITY.—For purposes of this section, the term 'eligible small entity' means an assigned operator, but only if, as determined under the records of the Combined Fund, such operator (or any related person of such operator)—

''(1) was not a signatory to the 1981 or later National Bituminous Coal Wage Agreement or any 'me too' agreement related to such Coal Wage Agreement;

''(2) reported credit hours to the UMWA 1974 Pension Plan on fewer than ten classified mine workers in every month during its last year of operations under the National Bituminous Coal Wage Agreement of 1978 or any 'me too' agreement related to such Coal Wage Agreement;

''(3) has had not more than 60 beneficiaries, including eligible dependents of retired miners, assigned to it under section 9706 (determined without regard to beneficiary assignments relieved by the Social Security Administration);

''(4) was assessed premiums by the Combined Fund, made payments pursuant to those assessments, and has no delinquency as of September 30, 2003; and

''(5) is not directly engaged in the production or sale of coal engaged in the production of coal as of September 30, 2003.''

(b) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 99 is amended by inserting after the item relating to section 9704A the following new item:

''Sec. 9704B. Refunds of annual premiums of certain small entities.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 115. FIRST YEAR PAYMENTS OF 1988 OPERATORS.

(a) IN GENERAL.—So much of section 9704(i)(1)(D) as precedes clause (ii) is amended to read as follows:

''(D) PREMIUM REDUCTIONS AND REFUNDS.—

''(i) 1st YEAR PAYMENTS.—In the case of a 1988 agreement operator making payments under subparagraph (A)—

''(I) the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993, and

''(II) if the amount so paid exceeds the operator's liability under subsection (a), the excess shall be refunded to the operator before December 31, 2003.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 116. LIABILITY IN THE EVENT OF PREFUNDING.

(a) IN GENERAL.—Section 9704 is amended—

(1) by striking ''Any'' in the last sentence of subsection (a) and inserting ''Except as provided in subsection (k), any'', and

(2) by adding at the end the following new subsection:

''(k) RELATED PERSONS RELIEVED OF LIABILITY FUNDED THROUGH VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION.—

''(1) IN GENERAL.—If a qualified voluntary employees' beneficiary association is established with respect to any signatory operator, then, as of the date determined under paragraph (2)—

''(A) the last sentence of subsection (a) shall not apply to any related person with respect to the operator (determined without regard to this subsection), and

''(B) all such persons shall permanently cease to be treated for purposes of this subchapter as related persons with respect to the signatory operator.

''(2) TIMING OF LIMITATION ON LIABILITY.—The date determined under this paragraph shall be the first date by which all of the following have occurred:

''(A) The qualified voluntary employees' beneficiary association's enrolled actuary (as defined in section 7701(a)(35)), using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate (as determined by such enrolled actuary), determines the balance of funds held by the association, resulting from 1 or more contributions to the association and earnings thereon, equals or exceeds the sum of—

''(i) the present value of the total premium liability of the signatory operator for its assignees under section 9704 with respect to the Combined Fund, plus

''(ii) the amount necessary to pay administrative and other incidental expenses of such association.

''(B) The enrolled actuary files a signed actuarial report with the Secretary containing—

''(i) the date of the actuarial valuation applicable to the report,

''(ii) a description of the funding method and actuarial assumptions used to determine costs of the association,

''(iii) a statement by the enrolled actuary signing the report that to the best of the actuary's knowledge the report is complete and accurate and that in the actuary's opinion the actuarial assumptions used are in the aggregate—

''(I) reasonably related to the experience of the association and to reasonable expectations, and

''(II) represent the actuary's best estimate of anticipated experience of the association, and

''(iv) such other information as may be necessary to fully and fairly disclose the actuarial position of the association.

''(C) The signatory operator provides security (in the form of a bond, letter of credit, or cash escrow) to the trustees of the 1992 UMWA Benefit Plan which—

''(i) is solely for the purpose of paying premiums for beneficiaries described in section 9712(b)(2)(B),

''(ii) is in an amount equal to 1 year's liability of the signatory operator under section 9711, determined by using the average cost of such operator's liability during its prior 3 calendar years, and

''(iii) is to remain in place for a period of 5 years.

''(D) 30 calendar days have elapsed after the report required by subparagraph (B) is filed with the Secretary, along with a description of the security required by subparagraph (C), and the Secretary has not notified the association's enrolled actuary in writing that the requirements of this subparagraph have not been satisfied.

''(3) QUALIFIED VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION.—For purposes of this subsection, the term 'qualified voluntary employees' beneficiary association' means, with respect to a signatory operator, an association described in section 501(c)(9)—

''(A) which is established by the operator, a related person to the operator (determined without regard to this subsection), or a member of a controlled group of corporations which includes the operator;

''(B) the purpose of which is exclusively—

''(i) to satisfy the premium liability of the signatory operator with respect to the Combined Fund,

''(ii) to fund health benefits provided pursuant to a collective bargaining agreement, including benefits for individuals covered by sections 9711 and 9712, or to fund premiums for insurance exclusively covering such benefits, and

''(iii) to pay administrative and other incidental expenses of such association;

''(C) no part of the assets of which may be used for, or diverted to, any purpose other than the purposes described in subparagraph (B); and

''(D) payments from which may be made for the purposes described in subparagraph (B)(ii) only to the extent that—

''(i) the signatory operator no longer has an obligation to make payments under subparagraph (B)(i); or

''(ii) during any annual accounting period of the association such payments do not exceed, in the aggregate, 90 percent of the excess of—

''(I) fair market value of the association's assets, over

''(II) the present value of the liability described in subparagraph (B)(i).

Amounts under subparagraph (D)(ii) shall be determined, as of the end of the association's prior year annual accounting period, by the association's enrolled actuary (as defined in section 7701(a)(35)) using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate (as determined by such enrolled actuary).

''(4) OTHER RULES RELATING TO ASSOCIATIONS.—For purposes of this subsection—

''(A) if a qualified voluntary employees' beneficiary association makes a payment, the association's enrolled actuary shall, within 30 days after the end of the association's annual accounting period which includes the payment, file with the Secretary an actuarial report containing the information described in paragraph (2)(B) and a statement that the requirements of paragraph (3)(D) have been satisfied during the prior year; and

''(B) a signatory operator, or member of the controlled group of corporations which includes such signatory operator, which has previously established an association under section 501(c)(9) for purposes which include purposes described in paragraph (3) may use funds from such previously established association to fund all or a portion of the association established under this subsection.''

(b) CONFORMING AMENDMENT.—Section 419A(f)(5)(A) is amended by inserting '', including a qualified voluntary employees' beneficiary association (as defined in section 9704(k))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to associations established after the date of the enactment of this Act.

SEC. 117. DEFINITION OF SUCCESSOR IN INTEREST.

(a) IN GENERAL.—Subsection (c) of section 9701 is amended by adding at the end the following new paragraph:

''(8) SUCCESSOR IN INTEREST.—

''(A) SAFE HARBOR.—The term 'successor in interest' shall not include any person—

''(i) who is an unrelated person to a seller, and

''(ii) who purchases for fair market value assets, or all the stock of a related person, in

a bona fide, arm's-length sale which is subject to section 5 of the Securities Act of 1933 (15 U.S.C. 77f et seq.) or the Securities Exchange Act of 1934 (15 U.S.C.78a et seq.).

''(B) UNRELATED PERSON.—The term 'unrelated person' means a purchaser who does not bear a relationship to the seller described in section 267(b).

''(C) CONTINGENT LIABILITY.—This paragraph shall only apply if the contract for sale provides that, if the seller fails to make a premium payment to the Combined Fund during the first 5 plan years beginning after the sale, then the purchaser shall be secondarily liable for any liability to the Combined Fund it would have had but for the provisions of this paragraph.

''(D) NO INFERENCE.—Nothing in this paragraph shall be construed to infer that a purchaser in a sale not described in this paragraph is a successor in interest.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after the date of the enactment of this Act.

TITLE II—RETROACTIVE PROVISIONS

SEC. 201. REFORM OF RETROACTIVE PROVISIONS OF COAL INDUSTRY HEALTH BENEFIT SYSTEM.

(a) AGREEMENTS COVERED BY HEALTH BENEFIT SYSTEM.—

(1) IN GENERAL.—Section 9701(b)(1) (defining coal wage agreement) is amended to read as follows:

''(1) COAL AGREEMENTS.—

''(A) 1988 AGREEMENT.—The term '1988 agreement' means the collective bargaining agreement between the settlors which became effective on February 1, 1988.

''(B) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means the 1988 agreement and any predecessor to the 1988 agreement.''

(2) CONFORMING AMENDMENT.—Section 9701(b) (relating to agreements) is amended by striking paragraph (3).

(b) DEFINITIONS APPLICABLE TO OPERATORS.—

(1) SIGNATORY OPERATOR.—Section 9701(c)(1) (defining signatory operator) is amended to read as follows:

''(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a 1988 agreement operator.''.

(2) 1988 AGREEMENT OPERATOR.—Section 9701(c)(3) (defining 1988 agreement operator) is amended to read as follows:

''(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

''(A) an operator which was a signatory to the 1988 agreement, or

''(B) a person in business which, during the term of the 1988 agreement, was a signatory to an agreement (other than the National Coal Mine Construction Agreement or the Coal Haulers' Agreement) containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 agreement.

Such term shall not include any operator who was assessed, and paid the full amount of, contractual withdrawal liability to the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, or the Combined Fund.''

(3) CONFORMING AMENDMENTS.—

(A) Section 9711(a) is amended by striking ''maintained pursuant to a 1978 or subsequent coal wage agreement''.

(B) Section 9711(b)(1) is amended by striking ''pursuant to a 1978 or subsequent coal wage agreement''.

(c) MODIFICATIONS TO REFLECT REACHBACK REFORMS.—

(1) BOARD OF TRUSTEES OF COMBINED FUND.—

(A) IN GENERAL.—Section 9702(b)(1) is amended—

(i) by striking ''one individual who represents'' in subparagraph (A) and inserting ''two individuals who represent'',

(ii) by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(iii) by striking ''(A), (B), and (C)'' in subparagraph (C) (as so redesignated) and inserting ''(A) and (B)''.

(B) CONFORMING AMENDMENT.—Section 9702(b)(3) is amended to read as follows:

''(3) SPECIAL RULE.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on October 24, 1992, and who have been assigned the greatest number of eligible beneficiaries under section 9706.''

(C) TRANSITION RULE.—Any trustee serving on the date of the enactment of this Act who was appointed to serve under section 9702(b)(1)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this paragraph) shall continue to serve until a successor is appointed under section 9702(b)(1)(A) of such Code (as in effect after such amendments).

(2) ASSIGNMENT OF BENEFICIARIES.—Section 9706 (relating to assignment of eligible beneficiaries) is amended by adding at the end the following:

''(h) ASSIGNMENT AS OF OCTOBER 1, 2003.—

''(1) IN GENERAL.—Effective October 1, 2003, the Commissioner of Social Security shall—

''(A) revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for periods after September 30, 2003,

''(B) make no further assignments to persons other than 1988 agreement operators, and

''(C) terminate all unpaid liabilities of persons other than 1988 agreement operators with respect to eligible beneficiaries whose assignment to such persons is pending on October 1, 2003.

''(2) REASSIGNMENT UPON PURCHASE.—This subsection shall not be construed to prohibit the reassignment under subsection (b)(2) of an eligible beneficiary.''

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 246—EXPRESSING THE SENSE OF THE SENATE THAT NOVEMBER 22, 1983, THE DATE OF THE RESTORATION BY THE FEDERAL GOVERNMENT OF FEDERAL RECOGNITION TO THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON, SHOULD BE MEMORIALIZED

Mr. SMITH (for himself and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 246

Whereas the Grand Ronde Restoration Act (25 U.S.C. 713 et seq.), which was signed by the President on November 22, 1983, restored Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon;

Whereas the Confederated Tribes of the Grand Ronde Community of Oregon historically inhabited land that extended from the summit of the Cascade Range, west along the shores of the Columbia River to the summit of the Coast Range, and south to the California border;

Whereas in addition to restoring Federal recognition, that Act and other Federal Indian statutes have provided the means for the Confederated Tribes to achieve the goals of cultural restoration, economic self-sufficiency, and the attainment of a standard of living equivalent to that enjoyed by other citizens of the United States;

Whereas by enacting the Grand Ronde Restoration Act (25 U.S.C. 713 et seq.), the Federal Government—

(1) declared that the Confederated Tribes of the Grand Ronde Community of Oregon were eligible for all Federal services and benefits provided to federally recognized tribes;

(2) established a tribal reservation; and

(3) granted the Confederated Tribes of the Grand Ronde Community of Oregon self-government for the betterment of tribal members, including the ability to set tribal rolls;

Whereas the Confederated Tribes of the Grand Ronde Community of Oregon have embraced Federal recognition and self-sufficiency statutes and are actively working to better the lives of tribal members; and

Whereas economic self-sufficiency, which was the goal of restoring Federal recognition for the Confederated Tribes of the Grand Ronde Community of Oregon, is being realized through many projects: Now, therefore, be it

Resolved, That it is the sense of the Senate that November 22, 1983, should be memorialized as the date on which the Federal Government restored Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon.

SENATE RESOLUTION 247—CALLING ON THE PRESIDENT TO CONDEMN THE ANTI-SEMITIC SENTIMENTS EXPRESSED BY DR. MAHATHIR MOHAMAD, THE OUTGOING PRIME MINISTER OF MALAYSIA

Mr. LAUTENBERG (for himself, Mr. SMITH, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. CORZINE, Mrs. BOXER, Mr. DASCHLE, Mr. DODD, Mr. SCHUMER, Mr. HATCH, Mrs. MURRAY, Mr. COLEMAN, Mr. WYDEN, Mr. BROWNBACK, Mr. REID, Mr. BAYH, Mr. CHAMBLISS, Mr. LEAHY, and Mr. GRAHAM of Florida) submitted the following resolution; which was considered and agreed to:

Whereas the outgoing prime minister of Malaysia, Dr. Mahathir Mohamad, has become notorious over the years for his virulent opposition to Israel;

Whereas Dr. Mahathir opened the 57-nation, October 2003 summit of the Organization of the Islamic Conference in Malaysia by characterizing Israel and Jews around the world as ''the enemy'' who ''rule the world by proxy'';

Whereas Dr. Mahathir's anti-Semitic remarks are despicable and will serve to incite further sectarian violence; and

Whereas President George W. Bush will be traveling to Thailand to attend the October 20–21, 2003, meeting in Bangkok of the leaders of Asia-Pacific Economic Cooperation (APEC), which Dr. Mahathir will also be attending: Now, therefore, be it

Resolved, That the Senate—

(1) thoroughly repudiates the damaging rhetoric of the outgoing prime minister of Malaysia, Dr. Mahathir Mohamad, which makes peace in the Middle East and around the world more elusive; and

(2) calls upon President George W. Bush, on behalf of the United States, to condemn Dr. Mahathir's injurious sentiments when the President and the prime minister meet to attend the October 20–21, 2003, meeting in Bangkok of the leaders of Asia-Pacific Economic Cooperation (APEC).